

Defense Opening

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2 cute".

3 Then later on near the end of a long
4 discussion they have near the end of it she
5 writes "May I proposition you for cafe latte
6 to -- If I proposition you for cafe Latte, will
7 you object?

8 When she says what is your name, he says
9 Oliver. In that same conversation she says "Oh,
10 Oliver, my most beloved name ever".

11 She goes on to talk about how it appears to
12 be the name of her favorite dog and she is
13 enthralled with this person she has been talking
14 to has the name Oliver.

15 Ladies and gentlemen, no one is blaming
16 [REDACTED] [REDACTED] for going back to Oliver's
17 apartment near midnight on Friday night the 22nd
18 into early Saturday the 23rd. She wanted to do
19 so. She asked to do so. Certainly there is
20 nothing wrong with that.

21 No one is blaming her for her expressed
22 desire to him to engage in an S and M experience
23 with Oliver that night. Or no one is blaming
24 him for wanting to do it with her that night.

25 They were consenting adults and as we

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describing this incident.

The evidence will show that [REDACTED] [REDACTED] was scared and repulsed by what was inside of herself, repulsed by her own desires that she willing engaged in and experience, call it S and M or bondage and domination which was nonviolent, which was consensual, but still very disturbing to her, but which was transformed by her own expressed psychological makeup as she expressed it to Oliver Jovanovic.

It was transformed into an angry violent assault. You will see that when she engaged in what she writes about to Oliver that she wants to do that night and what she talks to Oliver about what she wants to do that night, that part of her, she is obsessed with that and at the same time unbeknownst to her she has a self anger and a self-loathing about this.

In order to absolve herself of any accomplicity or responsibility for what she undertook, she begins over time, that is why it took several days blaming Oliver Jovanovic and completely absolving herself.

She didn't want to do this. Now she says

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3 Q. What happened then?

5 Q. Then what happened?

6 A. He reached for my breast.

7 Q. What did he do?

8 A. I couldn't take that anymore. It hurt so much.

9 THE COURT: Wait for the next question.

10 Q. What did the defendant do with the baton then?

11 A. He said if you don't want that, I'm going to hit
12 you.

13 Q. Did he hit you with the baton?

14 A. Yes.

15 Q. Where?

16 A. My thighs.

17 Q. Where specifically on your thighs?

18 A. The inside.

19 Q. How close was it to your genital area?

20 A. He hit me there.

21 Q. Can you describe how he hit you with the baton.

22 A. He didn't hit me like it was a club. He didn't
23 lift it over his head and bash it down.

24 Q. How did he hit you?

25 A. He used his wrist, like someone would snap a

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2/98M
PENNSA D C O BAYONNE N J C 7 0 0 2 F O R M F E O

1 [REDACTED] - People - Direct

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2 whip.

3 Q. How many times did the defendant hit you between
4 the thighs?

5 A. Lots.

6 Q. Did there come a time that the defendant moved
7 your position on the bed?

8 A. Yes.

9 Q. And what did he do?

10 A. I was on my stomach.

11 Q. While you were on your stomach, were your ankles
12 and arms still tied together?

13 A. Yes.

14 THE COURT: How were they tied?

15 THE WITNESS: My wrists were tied together
16 and my ankles were tied together. Those were
17 tied together.

18 Q. Was it behind your back?

19 A. Behind my back.

20 THE COURT: I'm not sure I understood.
21 Your wrists were tied and your ankles were tied,
22 then your ankles were tied to your wrists?

23 THE WITNESS: Yes, behind my back. My
24 knees were bent.

25 THE COURT: Thank you.

1 [REDACTED] - People - Direct

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2 Next question.

3 Q. While you were lying on your stomach, what did
4 the defendant do?

5 THE COURT: Tell us what happened next?

6 A. He put his hand on my left breast and he put his
7 body on top of mine and he whispered in my right ear, what
8 do you want me to do to you. I said untie me, let me go.

9 Q. Miss [REDACTED] after you said that -- Was his body
10 touching yours?

11 A. Yes.

12 Q. Had the defendant removed any of his clothing up
13 to this point?

14 A. No.

15 Q. Could you feel his genital area against you
16 while he was lying on you?

17 A. Yes.

18 MR. LITMAN: Objection, leading, Your
19 Honor.

20 THE COURT: Overruled.

21 Q. What do you feel?

22 A. His penis.

23 Q. Can you describe what condition it was in?

24 A. Erect.

25 Q. And after you said, let me go, what did the

1 [REDACTED] - People - Direct

2 defendant say?

3 A. I don't remember his exact words.

4 Q. What did he do then with the baton?

5 A. I remember feeling him before that. He was
6 touching my genitals.

7 Q. With what?

8 A. With his fingers.

9 Q. What part of your genitals?

10 A. Outside of my genitals.

11 Q. Did he touch your anus?

12 A. No.

13 Q. What did he do next?

14 A. He took the baton or something hard, it could
15 have been his penis, I don't know what it was.

16 Q. What did he do?

17 A. Something was inserted into my anus.

18 Q. Did that hurt?

19 A. Yes.

20 Q. While he was inserting the baton or his penis
21 inside your anus, what did he do with his finger?

22 A. He put it in my vagina.

23 Q. Can you tell the jurors how he put his finger
24 inside your vagina?

25 A. Repeat the question.

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3 A. He was trying to look at my genitals.

4 Q. What happened next?

5 A. I ran for my pants and I put them on and he got
6 up and he chased me to the futon and he tried to get me
7 down and he pushed me down to the futon and I started
8 wrestling. He was trying to get me. He was trying to
9 hold my arms down. He was trying to grab me with his
10 thighs and I just fighting. I just kept fighting. I
11 wasn't going to let him get any part of my body down. I
12 kept moving and moving and I just wouldn't let him get an
13 arm down, wouldn't get him get a leg down. I ran wherever
14 I would have the chance, I would run from the bed to the
15 futon.

16 THE COURT: Miss [REDACTED] the reporter has
17 to take it down.

18 Q. What did the defendant do when you were trying
19 to fight him off?

20 A. He tried to get me tied backup.

21 Q. Did there come a time when you were able to pull
22 your pants on?

23 MR. LITMAN: Objection. She said she did
24 before, Your Honor.

25 THE COURT: Overruled.

[REDACTED] - People - Direct

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2 A. Yes.

3 Q. Were you in your underwear at that point?

4 A. No.

5 Q. Were you able to get any of your other clothes
6 on?

7 A. Yes.

8 Q. What?

9 A. I grabbed my sweater. As I was running I put my
10 sweater on.11 Q. And what about the rest of your clothes, your
12 panties and bra, what did you do with those?13 A. My bra was by the futon. I picked it up. When
14 I was by the bed I picked up my panties.

15 Q. What did you do with them?

16 A. I clenched them in my hands.

17 Q. Where did you put them?

18 A. I just clenched them. I put the panties in my
19 pocket of my pants.20 Q. Did there come a time that you got to the door
21 of the defendant's apartment?

22 A. (Nodding)

23 Q. What did the defendant do?

24 MR. LITMAN: Your Honor, she didn't say,
25 let the record reflect she was shaking her head

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MS. HEATHERLY: This is an issue we need to raise here. Mr. Litman referred in his opening to two statements from legal arguments made by the People. One of them was "bled profusely" and the other one was "Rammed violently". Those are taken from legal briefs by the prosecution.

THE COURT: Miss Heatherly I can't control people's opening statements as Mr. Litman aptly put it, that is a promissory note. He issued his promissory note. We have to see where it goes.

MS. HEATHERLY: I want to to give your Honor law if he is arguing it is an admission. Those were affirmations on information and belief.

THE COURT: He is not.

MS. HEATHERLY: If he is arguing it is a prior inconsistent statement, he is precluded from confronting her.

THE COURT: I'm confident he won't argue that.

MR. SOSINSKY: Then we better talk about it now. We are confident we are going to do that, Judge. We have a prosecutor under oath stating

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that this is what occurred.

THE COURT: And you are going to a --

MR. LITMAN: I have more than a good faith basis in asking the complaining witness did you tell either someone in law enforcement or Gail Heatherly what is written here and I will show it to her.

THE COURT: All right. Hold it. That is a different question.

MS. HEATHERLY: She'll say no.

THE COURT: That is okay. He can ask that question.

MS. HEATHERLY: He has to lay the foundation.

THE COURT: He lays the foundation that is similar to what if you ask if you've got, let's say, a DD-5 and you are going to say well did you tell police officers so and so the guy was wearing a red death.

MS. HEATHERLY: It is a little different. It is an affirmation. I have law on that. The case is out of the Court of Appeals.

THE COURT: No, he cannot put into evidence, he cannot use the document in

1 Cross - [REDACTED] - Litman

2 Q Would you turn to I-M if you would and look at
3 page 3. This is the message between you and Oliver, near
4 the end of June of 1996, is that right?

5 A This is the conversation in June, 1996.

6 Q Is that right?

7 A Yes.

8 Q And remember Oliver telling you about a prank
9 that he had read about involving Penn an Teller, do you
10 remember that?

11 A Yes, I don't know if he read about it, though.

12 He --

13 Q I'm sorry?

14 A I don't know if he read about it, he didn't tell
15 me how he found out about it.

16 Q But he told you about it?

17 A Yes.

18 Q And he told you, at the end, about how the people
19 who put together this prank did it not with precision, in
20 fact, the words he used were, it looked very rough, remember
21 him writing that to you on line 28?

22 A 28? Yes.

23 Q And your comment to him was, "rough is good"?

24 A Yes.

25 Q What did you mean by rough is good?

1 Cross - [REDACTED] - Litman

2 Q Did you say to him in the next E-mail, no I'm not
3 you're wrong?

4 A I didn't mention it.

5 Q So, you did not say that, is that correct?

6 A That's correct.

7 Q And did he write to you, "as for more interesting
8 than sex, suggest you look into tantric yoga, kundalini yoga
9 alchemy and sex magick. I suspect those are ideas you
10 haven't explored. Might give you a different perspective.
11 Oliver"?

12 A He said "areas" instead of "idea" but that's what
13 he wrote.

14 Q "Areas" instead of "idea"?

15 A Right.

16 Q And if you turn to the next page, you answered
17 that, did you not?

18 A I did.

19 Q And you wrote, "I read a bondage and dominance
20 book that had a few pages about sex magic, I could see
21 flirting with that for a while", did you write that?

22 A That's what I wrote.

23 Q Excuse me?

24 A Yes, that's what I wrote.

25 Q Did you read a bondage and dominance book?

1 Cross - [REDACTED] - Litman

2 A That's what I say.

3 Q And that conveys, does it not, Miss [REDACTED] that
4 after you've tested yourself, that you're going to continue
5 to do it, doesn't that convey that?

6 A It doesn't convey it to me. I was trying to say
7 it to him, that if like you make dismemberment a joke and
8 then you do it then the next step is murder, that's what I
9 was trying to say to him.

10 Q But you weren't really thinking about
11 dismemberment, were you?

12 A Yes.

13 Q You really thought that Oliver was thinking about
14 for example taking a saw and cutting your leg off?

15 A That's what I was thinking -- well, that's the
16 joke, that's what I thought he was saying in his joke.

17 Q You thought he was saying that maybe he wanted to
18 get together with you to cut off one of your arms?

19 A He was jokingly saying that but maybe, I mean --
20 maybe he did want to do that.

21 Q Miss [REDACTED] weren't all of these words code
22 words that were going on between you and Oliver, isn't that
23 what was really going on between you and Oliver?

24 MS. HEATHERLY: Objection.

25 THE COURT: Overruled.

1 Cross - [REDACTED] - Litman

2 A No.

3 Q So you're telling us that when this word
4 "dismemberment" was used here, you actually thought of it in
5 the literal sense of the word, correct?

6 A That's correct.

7 Q And after you thought that Oliver was actually
8 thinking about dismembering you, you went out on a date with
9 him, is that right?

10 A He said it was a joke, so I did.

11 Q Excuse me.

12 Did you go out on a date with him?

13 A Yes, I did.

14 Q Willingly?

15 A Yes.

16 Q And then you went back to his apartment at about
17 midnight?

18 A 11:30, yes.

19 Q And when you were tied up, you didn't protest at
20 the moment you were tied up, is that correct?

21 A That's correct.

22 Q And this is a man with whom you say you
23 thought --

24 MR. LITMAN: Withdrawn.

25 Q What is the date of this E-mail, by the way, that

1 Cross - [REDACTED] - Litman

2 you wrote?

3 A November 20th.

4 Q At what time of day?

5 A (no response)

6 Q 20 I guess means eight o'clock at night, right so
7 it would be 8:48 in the evening, is that correct?

8 A Right.

9 Q That's just forty-eight hours before you went out
10 on a date with Oliver Jovanovic and a few hours after that,
11 you went back to his apartment, is that right?

12 A If those times are correct, yes.

13 Q I ask you again, isn't dismemberment that you are
14 referring to, here, nothing to do with it's literal meaning
15 but in fact, it's a code word?

16 MS. HEATHERLY: Objection.

17 THE COURT: I'm going to allow it one more
18 time.

19 A I thought it meant dismemberment in the sense
20 where you take a saw and cut someone's leg off.

21 Q And when you wrote near the end of this, on lines
22 44 and 45, "If dismemberment really riles you up, you may be
23 in my snuff film and wish for bad pleasure #1 at
24 Christmastime", did you write that?

25 A That's not the end of it, it goes kind of

1 Cross - [REDACTED] - Litman

2 together.

3 Q You write, it goes in fact a few more lines, so
4 forgive me and let's rephrase the question.

5 On lines 44 and 45, did you write, "If
6 dismemberment really riles you up, you may be in my snuff
7 film and wish for bad pleasure # 1 at Christmastime", did
8 you write that?

9 A Yes, I wrote that.

10

11 (Transcript continues on following page)

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1 [REDACTED] - People - Cross

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2 Q. What was "bad pleasure number one at Christmas
3 time"?

4 A. Dismemberment.

5 Q. Where did that phrase come from "bad pleasure
6 number one"?

7 A. I made it up when I was writing.

8 Q. When you wrote that to him, I ask you again was
9 that not part of code words that were going on?

10 THE COURT: Sustained.

11 Q. This line --

12 MR. LITMAN: This line, your Honor?

13 THE COURT: All right. This line is that
14 line part of a code word?

15 THE WITNESS: It is not part of a code
16 words.

17 Q. It is not part of a code word?

18 A. No.

19 THE COURT: Don't repeat.

20 MR. LITMAN: I couldn't hear.

21 THE COURT: Ask the reporter to read it
22 back rather than repeating it to the jury, Mr.
23 Litman.

24 Q. When you wrote about dismemberment a little
25 higher up on that page 38 to 39, that "it could get sick

1 [REDACTED] - People - Cross

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2 and just may", do you remember writing that?

3 A. Where is that?

4 Q. Line 38 and 39?

5 A. 38 and 39, I wrote that.

6 Q. Still on page 43?

7 A. Yes.

8 Q. When you wrote that "it could get sick and just
9 may get sick", you meant to imply by that it might, in
10 fact, get sick; is that right?

11 A. If he was talking about literal dismemberment,
12 he could go onto commit murder, that is what I meant.

13 Q. You certainly didn't want to be dismembered?

14 A. No.

15 Q. That is why you were writing to him this literal
16 stuff about dismemberment, correct?

17 A. I wrote it because I was confused. I mean I
18 thought it was a joke and I just wanted to point out that
19 this is a joke.

20 Q. Look at the next page please, "So what taboo
21 question should I ask".

22 Did you write that?

23 A. Yes.

24 Q. What taboo question were you thinking about when
25 you wrote that; do you know?

1 [REDACTED] - People - Cross

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2 A. I didn't have one in mind.

3 Q. Isn't that another code word for either bondage
4 and domination or S and M?

5 A. Which word?

6 Q. "What taboo question should I ask"?

7 A. Is "taboo question a code word"?

8 Q. No.

9 A. Taboo question means taboo question.

10 Q. What taboo question were you referring to?

11 A. I didn't have a reference question.

12 Q. Next question then, "hmm how would you like to
13 die", is that what you wrote to him?

14 A. Yes.

15 Q. You wrote this after telling him in your words
16 that you were reprimanding him for thinking about
17 dismemberment, correct?

18 A. Correct.

19 Q. Then you wrote to him "hmm how would you like to
20 die"?

21 A. That's correct.

22 Q. Why did you write to him "hmm how would you like
23 to die", did you think that was exciting?

24 A. No. I thought he was different and --

25 Q. In what way was he different for you to write

1 [REDACTED] - People - Cross

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2 is tricky, so I thought maybe.

3 Q. And "speaker", who is the speaker that you were
4 referring to on line 38?

5 A. It is his riddle as "I" I can vivify rose gray
6 sir. So "I" is like in a position where he has to call
7 someone sir, that is the speaker.

8 Q. And you wrote "in submissive position of
9 authority"?

10 A. Correct, like in the military.

11 Q. What did you mean by submissive there "in
12 submissive position of authority"?

13 A. Like the difference between a private and a
14 general. This person here says, "I singlehanded vivify
15 rose gray sir" so I thought maybe he was in the Army or
16 perhaps like on a ship in the Navy.

17 Q. That person would be submissive in the position
18 of authority?

19 A. Correct.

20 Q. That's not another code word?

21 A. That is not a code word.

22 Q. Look at the next page. You didn't get a
23 response to that particular e-mail; is that correct?

24 A. This is part of it I sent.

25 Q. You sent it twice; is that correct?

1 [REDACTED] - People - Cross

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2 A. Yes. I sent it twice. I don't think I meant to
3 send the first one, because I was still working on it.

4 Q. But you sent it nonetheless?

5 A. Accidentally, yes.

6 Q. And then the second one you continued, did you
7 not, on page 48 near the top.

8 A. Yes.

9 Q. You wrote to Oliver on line 6 or 7, "so my
10 answer you want to be Christ's counterpart crucified
11 martyr "?

12 A. Right.

13 Q. Wrote on line 15 "Hmm I'm questioning which of
14 your many quote unquote hobbies to muck around in"?

15 A. Correct.

16 Q. Those hobbies have to do with S and M?

17 A. No.

18 Q. Excuse me?

19 A. I think I list them. I list the hobbies at the
20 end of it, at the end of the e-mail.

21 Q. Do they have to do with S and M?

22 A. No.

23 Q. Do they have to do with bondage and domination?

24 A. No. I put it in a quote.

25 Q. Excuse me?

1 [REDACTED] - People - Cross

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2 A. Hobbies I think, I'm remembering, I put hobbies
3 in a quote because his hobbies were his work. His work
4 was making board games, which he called a hobby but
5 hobbies and work went together.

6 Q. That is not what you meant at all by hobbies;
7 isn't that correct you didn't mean that did you?

8 A. Yes, that's what I meant.

9 Q. On the next line you write, the very next line
10 "You see I'm not sexual. My idea of a good time is dirt.
11 Dirt I find quite erotic"?

12 A. Yes.

13 Q. That's the very next thing that you wrote?

14 A. That's correct.

15 Q. Is your idea of good time dirt?

16 A. Dirt, clay, rock.

17 Q. Raw?

18 A. Rock as in to sculp.

19 Q. You are not sexual but your idea of good time is
20 like a rock to sculp, is that what you meant by that line?

21 A. Dirt, clay, making sculpture.

22 Q. And why is that in the same sentence with "You
23 see I'm not sexual"?

24 A. Because you can take that energy and put it into
25 your work which hobbies meant work for Oliver.

1 [REDACTED] - People - Cross

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2 My work I was thinking of being a sculptor at
3 one point sculpting and I'm a philosophy major, which is
4 also work. Those are my hobbies.

5 Q. You are telling us that is what you meant by
6 when you wrote "I'm not sexual, my idea of good time is
7 dirt"?

8 A. That's correct.

9 Q. You find dirt quite erotic?

10 A. Well making sculptures, clay, yes.

11 Q. That's what dirt means?

12 A. Dirt, clay.

13 Q. That sculpting is irotic and use the word dirt
14 for sculpting?

15 A. That's correct.

16 Q. And you asked "if you want to direct me to more
17 interesting waters captain Vire, I solute the effort"?

18 A. Correct.

19 Q. Is that a code word about your desire to have
20 the bondage and domination experience or scene with Oliver
21 when you were going meet with him?

22 A. No.

23 Q. Was that a code word you used to have an S and M
24 experience or scene with Oliver when you were going meet
25 with him?

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1 [REDACTED] - People - Cross

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2 Q. Is that referring to your desire for sculpture?

3 A. No.

4 Q. Was that referring to Oliver's intellectual
5 desires or interest?

6 A. Yes. I would say yes to that.

7 Q. Isn't what you meant here this is getting kind
8 of intimate, meaning intimate in a very personal way
9 between you and Oliver and in an intellectual way?

10 A. Well, personal and intellectual.

11 Q. But certainly personal, correct?

12 A. Yes, like friendshipwise, yes.

13 Q. Wasn't this also part of the code words you were
14 sending out?

15 A. No. It wasn't a code word.

16 Q. "And dismemberment is still a looming threat",
17 is that the next line you wrote?

18 A. Yes.

19 Q. This is after you had reprimanded him for your
20 belief that he meant dismemberment in a literal sense,
21 correct?

22 A. I believed that he was taking it as a joke, but
23 I was just making sure he wasn't taking it literally.

24 Q. Before you told us a few minutes ago that you
25 thought he might actually be taking it literally, correct?

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1 [REDACTED] - People - Cross

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2 A. Yes.

3 Q. Where where do you see dismemberment in that
4 line, "I was speaking more in the sense of terminus
5 philosophorum versus terminus vulgaris"?

6 A. He was responding to me taking dismemberment is
7 a joke or dismemberment is real.

8 Q. That's not what he was responding to.

9 THE COURT: Sustained.

10 MS. HEATHERLY: Objection.

11 THE COURT: Sustained.

12 MR. LITMAN: Withdrawn.

13 THE COURT: Sustained.

14 Q. Isn't what you see here a response to your last,
15 next to the last line "How would you like to die"? Your
16 answer "Messily", spelled backwards, isn't those two lines
17 or aren't those two lines in direct response to that, Miss

18 [REDACTED]

19 A. Well, he didn't answer how he wanted to die, so
20 he couldn't be referring to that.

21 Q. You see how he used the word messily at the end
22 of the line?

23 A. Right.

24 Q. Is what you gilism spelled backwards as an
25 adverb; is that correct?

1 [REDACTED] - People - Cross

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2 A. Is what correct?

3 Q. That messily is spelled forwards the way the
4 word you used backwards in the prior e-mail when you wrote
5 Y L I S S E M; is that correct?

6 A. I'm not sure what you are asking.

7 Q. This word messy refers and picks up to your word
8 "missily" isn't it?

9 A. No.

10 Q. Is not in your view?

11 A. No.

12 Q. So you thing, this refers to dismemberment?

13 A. That's correct.

14 Q. If you look at the next page, "and dismemberment
15 is still a looming threat; that right?

16 A. That's correct.

17 Q. Did you mean that literally?

18 A. No. I was ending my e-mail with a flipped tone
19 like a joke.

20 Q. "What's a girl to do", was that an invitation to
21 talk to him and go out with him and to continue what you
22 have been discussing?

23 MS. HEATHERLY: Objection.

24 THE COURT: Sustained as to form.

25 Q. Just put the book down for a moment now please.

1 [REDACTED] - People - Cross 858

2 THE COURT: Is this a good place to take a
3 break.

4 MR. LITMAN: Whatever you wish.

5 THE COURT: We will take a break. All
6 right.

7 Don't talk about the case during the
8 interum among yourselves or with anybody else.

9 (The jury left the court room).

10 (A short recess was taken).

11 (The jury entered the court room)

12 THE CLERK: Case on trial continued. The
13 defendant is present. The defense counsel is
14 present. The district attorney is present. The
15 jurors are present.

16 The witness is reminded you are still under
17 oath.

18 MR. LITMAN: May I, your Honor?

19 THE COURT: Yes.

20 Q. When you were in Oliver's apartment did you use
21 code words or metephors for bondage and domination?

22 A. I said safe word.

23 Q. Other than safe word, did you use any code words
24 or metaphors for S and M?

25 A. No.

1 Cross - [REDACTED] - Litman

2 THE COURT: I'm not clairvoyant.

3 MS. HEATHERLY: What's the relevance?

4 THE COURT: What is the relevance?

5 MR. LITMAN: That she falsely charged her
6 father with physical abuse, not sexually, physical
7 abuse.

8 THE COURT: When was this?

9 MR. LITMAN: It happened while she was in
10 College.

11 MS. HEATHERLY: This is yet another example
12 of defense --

13 THE COURT: I would have to, I'm going to
14 sustain the objection. I would have to see a good
15 faith basis, this is a very sensitive area, it's
16 so improper just to spring it on me, seriously,
17 you want me to --

18 MR. LITMAN: This is cross examination.

19 THE COURT: How do I know? How would I ever
20 know there's a good faith basis?

21 MR. LITMAN: We're trying a case, we do an
22 investigation, we try our case.

23 THE COURT: I think you must make an offer
24 of proof.

25 MR. SOSINSKY: Can we, can we, can we now?

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t-4

1 Cross - [REDACTED] - Litman

2 A The left one may have, but I didn't notice, I
3 noticed the right one. At least that's what I remember,
4 now.

5 Q Did you say to the Grand Jury, that you saw both
6 of them start to bleed?

7 THE COURT: Sustained.

8 A Maybe they were both bleeding.

9 Q Well, were they?

10 A I remember they both hurt a lot and they both
11 could have been bleeding since he bit me.

12 Q You mean you told an Assistant District Attorney,
13 associated with this case, did you not, that both breasts
14 and nipples were bitten repeatedly, until they bled
15 profusely, correct?

16 MS. HEATHERLY: Objection.

17 THE COURT: Overruled. Do you recall making
18 any such
19 statement.

20 THE WITNESS: I recall saying that they were
21 both bitten repeatedly and until they bled --
22 profusely, I don't know about profusely. It
23 wasn't like it was gushing blood and I remember
24 my, this one, this one I remember bleeding.

25 Q So, you may have made a statement that they were

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1 Cross - Rzucek - Litman

t-4

2 the bed, from the futon, rather, to the bed, that either
3 Oliver's penis or a baton was pushed inside of your rectum,
4 is that right?

5 A It was a time question? What was the first part
6 of the question again?

7 Q You tell us that after you were taken from the
8 futon to the bed, while you were hog tied, that either
9 Oliver's penis or a baton was rammed inside of you, is that
10 right?

11 MS. HEATHERLY: Objection.

12 THE COURT: Sustained.

13 Q Is that right?

14 THE COURT: Sustained.

15 Excuse me, Mr. Litman come up, we'll
16 make a record.

17 (Whereupon the following discussion was held
18 at sidebar with the Court and counsel, out of the
19 hearing of the witness and jury)

20 THE COURT: This record will reflect that a
21 question was asked, an objection was sustained.
22 Now listen to me --

23 MR. LITMAN: Everybody can hear you.

24 THE COURT: I understand that.

25 MR. LITMAN: Please lower your voice.

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1 Cross - [REDACTED] - Litman

t-4

2 THE COURT: I'll lower my voice if you lower
3 your voice. An objection was sustained and you
4 repeated the question. The record shows that.

5 Now if you're going to continue that,
6 you're going to be asked to sit down. You got it?

7

8 (Whereupon the sidebar was concluded and the
9 following is held in open Court)

10 Q Was a baton rammed inside of you?

11 A Not rammed.

12 MS. HEATHERLY: Objection.

13 THE COURT: All right, not rammed she said.

14 Q I'm sorry?

15 THE COURT: She said not rammed.

16 Q Was it pushed hard inside you?

17 A No, it was pushed inside me.

18 Q The pain was so intense, is that right?

19 A Right.

20 Q Intense pain?

21 A It hurt.

22 Q Intensely, is that right?

23 A Yes.

24 Q You passed out, is that right?

25 A I don't remember what happened after that, I'm

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1 Cross - [REDACTED] - Litman

t-4

2 not saying I passed out.

3 Q Did you tell an Assistant District Attorney
4 associated with this case that a baton was violently rammed
5 into your anus and rectum?

6 A I did not use those words.

7 Q In fact, if you used those words, or someone said
8 you used those words that would be --

9 THE COURT: Sustained, sustained.

10 Q That would be preposterous, is that right?

11 THE COURT: Sustained, disregard.

12 MR. LITMAN: Your Honor, can we approach for
13 a minute?

14 THE COURT: No, we ruled on that.

15 MR. LITMAN: I have a separate application.

16 THE COURT: Later.

17 Q And you're telling us while you were hog tied it
18 was either a penis or a baton that went inside your rectum,
19 is that right?

20 A That's correct.

21 Q You don't know which one it was?

22 A No.

23 Q And this is People's exhibit 18, which you tell
24 us is similar to, but not obviously according to you, the
25 same one, is that right?

1 Bonilla - People - Cross 1647

2 A. Yes.

3 Q. You had to use two different keys to unlock the
4 door, one on the bottom and one on top?

5 A. Yes.

6 Q. Now, then when you are inside doing the search,
7 Officer, over the course of your three or four hours doing
8 the search warrant you saw that is how the inside of the
9 door looked as well?

10 A. Yes.

11 MR. SOSINSKY: I would offer them into
12 evidence.

13 MR HORNE: No objection.

14 THE COURT: Deemed marked.

15 Q. Now, when you were up at 684 Washington Avenue
16 doing the video tape that we saw earlier today, it is true
17 that between the time that the video was running and we
18 pick up with the next segment, there are gaps
19 approximately two and a half minutes?

20 A. Correct.

21 Q. When you were looking at the catch you or
22 whatever was there that day to sit down on the couch and
23 lean back?

24 A. No, sir.

25 Q. You didn't do that at all?

1 Bonilla - People - Cross 1648

2 A. No.

3 Q. How all are you sir?

4 A. Five eleven.

5 Q. How much do you weigh sir?

6 A. Approximately 210-220, give or take.

7 Q. There are three wingnuts that run on the back of
8 the futon on the couch; is that correct, that we saw in
9 the videotape?

10 A. Yes, that we saw on the videotape, yes.

11 Q. One on each end and one in the middle?

12 A. That's what I saw on the videotape, correct.

13 Q. You saw that that day when you were there that
14 day as well?

15 A. I really didn't look at the futon that well that
16 day.

17 Q. Now, you said that Mr. Jovanovic was placed
18 under arrest on December 5 of 1996; is that correct?

19 A. Yes.

20 Q. And you had met with [REDACTED] [REDACTED] first at
21 Barnard then back at your office on November 27th of 1996,
22 correct?

23 A. Yes, sir.

24 Q. And you told us that after the 27th either the
25 next day or so that you ran Mr. Jovanovic's name into some

1 MEYERS - PEOPLE - DIRECT 2014

2 Q Has your --

3 A I'm sorry.

4 Q I know it is a little warm in here.

5 Has your testimony been accepted as an

6 expert in the field of forensic serology?

7 A Yes.

8 MS. HEATHERLY: I offer Carol

9 Meyers as an expert in the field of

10 forensic serology.

11 MR. LITMAN: No objection.

12 THE COURT: Without objection she

13 is deemed and expert.

14 Q Did there come a time when you

15 performed some work on this case?

16 A Yes.

17 Q What work did you do?

18 A I analyzed --

19 MR. LITMAN: Can we have a date,

20 your Honor?

21 Q When did you first perform some work

22 on this case?

23 A I have to look at my notes.

24 THE COURT: Go ahead.

25 THE WITNESS: Okay.

1 MEYERS - PEOPLE - DIRECT 2015
2 The first piece of evidence that I
3 analyzed was pm December 12th, 1996.

4 Q And were there other dates when you
5 performed work on the case?

6 A Yes. December 18, 1996 and January
7 2nd, 1997.

8 Q Could you tell the jurors how this
9 coincides with the NYPD serology lab?

10 A It's brought into the lab by
11 vouchering officer and once it is brought in
12 it is given a laboratory number.

13 Q What is the purpose of the laboratory
14 number?

15 A The purpose of the laboratory number
16 is to just keep a record of the type of
17 evidence and to make sure that it will not get
18 lost.

19 Q Was the vouchering detective,
20 Detective Milton Bonilla?

21 A Yes.

22 Q When you received the property at the
23 serology lab what does it look like?

24 What containers or packaging is it
25 contained in?

1 MEYERS - PEOPLE - DIRECT 2016

2 A In this case I believe there were
3 maybe bags or boxes.

4 I'm not really sure. Again, I would
5 have to look at my notes.

6 Q The property is designated by
7 something known as voucher number

8 A Yes.

9 Q What does that signify to you?

10 A A vouchering number refers to a form
11 that is filled out, which is called a property
12 clerk voucher, and it is given a number and on
13 that form is listed the evidence that
14 corresponds with that voucher.

15 Q When you received the property is the
16 property in a sealed packaging?

17 A Yes.

18 Q Where does it stay until it becomes
19 time for you to examine it?

20 A We have a storage area at the
21 laboratory that it is kept in.

22 Q When it came time for you to perform
23 your analysis where did you go to pick up the
24 property?

25 A Actually, it was left on my work area.